



STATE BOARD OF OPTOMETRY  
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834  
P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov



## INFORMAL CITATION REVIEW CONFERENCE DECISION

### MODIFIED

CITATION NUMBER: CC 2013-2-M  
NAME: Kenneth Errol Ekelund

DATE ISSUED: February 27, 2014  
LICENSE: OPT 5847

It is the Informal Citation Review Conference Decision of the Executive Officer of the Board of Optometry that the Citation Order be withdrawn and a modified citation issued for the following reason:

You presented mitigating evidence regarding your arrests and conviction, as well as your efforts to ensure that no future violations occur.

Enclosed are a Statement of Rights, the Modified Citation Order, and a Notice of Appeal/Request for Administrative Hearing form. The Citation Order originally issued is withdrawn.

MONA MAGGIO  
Executive Officer

February 27, 2014  
Date

BEFORE THE CALIFORNIA STATE BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Modified Citation  
Against:

No. CC 2013-2-M

Dr. Kenneth Errol Ekelund, O.D.  
2190 Larkspur Ln #200  
Redding, CA 96002

Respondent

On December 16, 2013, citation number CC 2013-2 was issued to Kenneth Errol Ekelund, O.D by the Board of Optometry ("Board"). On December 19, 2013, Kenneth Errol Ekelund filed a Notice of Appeal and request for Citation Review Conference. On January 21, 2014, an Informal Citation Review Conference was held.

It is the Informal Citation Review Conference Decision of the Executive Officer of the Board of Optometry that the Citation Order be withdrawn and a modified citation issued for the following reason: you presented mitigating evidence regarding your arrests and conviction, as well as your efforts to ensure that no future violations occur.

**PARTIES**

Mona Maggio ("Complainant") brings this Citation solely in her official capacity as the Executive Officer of the California State Board of Optometry ("Board"), Department of Consumer Affairs.

On or about September 3, 1975, optometrist license number OPT 5847 was issued to Kenneth Errol Ekelund, O.D. This active license will expire on July 31, 2015, unless renewed.

**STATUTORY PROVISIONS**

California Code of Regulations (CCR) Sections 1576 authorizes the executive officer of the Board to issue citations containing orders of abatement and/or administrative fines pursuant to Business and Professions Code section 125.9 against an optometrist who has committed any acts or omissions which are in violation of the Optometry Practice Act or any regulation adopted pursuant thereto.

Business and Professions Code (BPC), section 3110 provides that the Board may take action against any licensee who is charged with unprofessional conduct and may deny an application for a license if the applicant has committed unprofessional conduct. In

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addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

- (a) Violating or attempting to violate, directly or indirectly assisting in or abetting the violation of, or conspiring to violate any provision of this chapter or any of the rules and regulations adopted by the Board pursuant to this chapter.
- (f) Any action or conduct that would have warranted the denial of a license.
- (k) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of an optometrist, in which event the record of the conviction shall be conclusive evidence thereof.
- (l) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or using alcoholic beverages to the extent, or in a manner, as to be dangerous or injurious to the person applying for a license or holding a license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a license to conduct with safety to the public the practice authorized by the license, or the conviction of a misdemeanor or felony involving the use, consumption, or self administration of any of the substances referred to in this subdivision, or any combination thereof.

CAUSE FOR CITATION

On October 21, 2011 at 2:05 am, you were stopped by the Newport Beach Police after you stopped at a green light and then proceeded to go at a red light. When initially contacted by the police officer, you denied having had any alcohol to drink. A second police officer was brought in to conduct a DUI investigation and you told that officer that you'd had "three Coors Lights". You estimated the time as 10:30 pm when it was actually 2:19 am and were unable to successfully complete standard Field Sobriety Tests, registering a blood alcohol content of 0.17% on a breathalyzer. You denied being on any medication to the officers, but, in your letter to the Board, you state that you are on medication for high blood pressure that intensifies the effects of alcohol.

On April 25, 2012, you were convicted by a plea of guilty to violating Vehicle Code (VC) section 23152(b) – driving with a blood alcohol content of 0.08% or higher.

It is the Board's finding that you violated BPC section 3110(k) when you were convicted of violating VC 23152(b).

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It is the Board's finding that you violated BPC section 3110(f) when you were convicted of violating VC 23152(b).

It is the Board's finding that you violated BPC section 3110(l) when you were convicted of violating VC 23152(b).

Moreover, it is the Board's finding that you violated BPC section 3110(a) by violating the above listed regulations.

Orders

(1) Order of Abatement:

The Board orders you to:

Comply with all statutes and regulations governing the practice of Optometry in the future.

(2) Order to Pay an Administrative Fine:

In addition, you must pay an administrative penalty (fine) in the amount of \$3,500.00; within thirty (30) days from the date of this citation but no later than **March 29, 2014**. This penalty constitutes a Class "C" citation in the amount of \$250.00 for violation of BPC section 3110(a), a Class "C" citation in the amount of \$250.00 for violation of BPC section 3110(f), a Class "C" citation in the amount of \$250.00 for violation of BPC section 3110(k), a Class "C" citation in the amount of \$250.00 for violation of BPC section 3110(l), as well as a citation in the amount of \$2,501.00 as the citation involves multiple violations of the law that demonstrate a willful disregard of the law.

Payment of the administrative penalty must be submitted to the Board, 2450 Del Paso Road, Suite 105, Sacramento, CA 95834. Note the citation number on the check or money order and complete the enclosed Acknowledgment of Receipt of Citation/Payment of Fine with payment.

You may contest this modified citation or any portion thereof, by requesting a formal Administrative Hearing. The request for a formal Administrative Hearing must be in writing and be submitted to the Board within thirty (30) calendar days. (Please refer to the enclosed Instructions to Cited Person for additional appeal information.) You may withdraw a Request for Administrative Hearing any time prior to the date of the hearing.

Failure to request an Administrative Hearing in a timely manner will waive your right to contest this modified citation.

Pursuant to Business and Professions Code section 125.9, if you do not request a formal Administrative Hearing, payment of the fine does not constitute an admission of the violation(s) alleged.

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If the fine is not paid **or** the modified citation contested within the allotted time frame, your license will not be renewed for the next renewal period until the fine is paid.

DATED: February 27, 2014

A handwritten signature in black ink, appearing to read "Mona Maggio", is written over a horizontal line.

MONA MAGGIO

Executive Officer

State Board of Optometry

Department of Consumer Affairs

State of California

Complainant

BEFORE THE  
BOARD OF OPTOMETRY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Citation Issued to )

Dr. Kenneth Errol Ekelund, O.D. )  
2190 Larkspur Ln. #200 )  
Redding, CA 96002 )

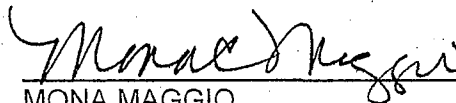
Citation No. CC 2013-2

Subject. )  
\_\_\_\_\_ )

NOTICE OF WITHDRAWAL OF CITATION

On December 16, 2013, Citation Number CC 2013-2 was issued to the subject for violation of Business and Professions Code sections 3110(k), 3110(f), 3110(l), and 3110(a). On January 21, 2014, an informal conference was held wherein the subject provided mitigating evidence regarding the allegations as stated in the Citation Order. At the conclusion of the informal conference, and based on the evidence provided, the citation issued to Kenneth Errol Ekelund is hereby withdrawn.

IT IS SO ORDERED THIS 27<sup>th</sup> day of February, 2014.



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MONA MAGGIO  
Executive Officer